

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In Re:)	Case No. 17-17361 (AIH)
)	
RICHARD M. OSBORNE,)	Chapter 11
)	
Debtor.)	Judge: ARTHUR I. HARRIS

**RESPONSE OF CHICAGO TITLE INSURANCE COMPANY TO
DIANE OSBORNE’S MOTION FOR ALLOWANCE AND IMMEDIATE PAYMENT OF
ADMINISTRATIVE EXPENSE CLAIM PURSUANT TO 11 U.S.C. § 507(a)(1)**

Chicago Title Insurance Company (“Chicago Title”), a creditor in the within case, through the undersigned counsel, respectfully files this response to Diane Osborne’s Motion for Allowance and Immediate Payment of Administrative Expense Claim Pursuant to 11 U.S.C. § 507(a)(1) (the “Motion”). Chicago Title incorporates the Debtor’s objection to the Motion, and further requests that the Motion be denied for the following reasons.

A. The alleged claim is not entitled to administrative expense status to be paid from the estate.

Although Chicago Title has no basis to dispute the entitlement of Diane Osborne (the “Claimant”) to a domestic support obligation, such an obligation is not entitled to administrative expense status to be paid immediately from estate property. Section 507(a)(1), recited by the Claimant as the basis for an administrative expense, provides for priority status for certain pre-petition domestic support obligations (namely in subsection (a)(1)(A) and (B)). The obligation described in the Claimant’s Motion, as alleged, is not a pre-petition obligation.

Moreover, this is not the type of obligation specifically defined in Section 503(b)(1) through (9). Thus, there is no statutory basis for allowing the Claim as an administrative expense in a chapter 11 case in which no plan has been confirmed. Although the Claim appears to a non-

dischargeable obligation, for which the Debtor is responsible regardless of any bankruptcy filing, there has been no statutory basis cited allowing immediate payment of the Claim from estate funds.

B. The Claimant is not entitled to immediate payment. There has been no confirmed plan to pay creditors.

After almost ten (10) months, the Debtor has yet to propose any plan of reorganization or liquidation, or any overall payment plan to creditors. No disclosure statement has been filed. There could be more than one claimant with the same or similar class of unpaid claim (i.e., other domestic support obligations). Absent any formulation of a plan, or a proposed plan, no payment should be ordered. An immediate, lump sum payment of at least \$80,000.00 could have a sizeable impact on the funds available for distribution from the estate, and other creditors including Chicago Title. Absent the filing and approval of a disclosure statement and plan, no immediate payment of any claims should be ordered.

Accordingly, Chicago Title respectfully requests that the Motion be denied.

Respectfully submitted,

KOEHLER FITZGERALD LLC

/s/ Robert D. Barr
Robert D. Barr (0067121)
1111 Superior Avenue East, Suite 2500
Cleveland, Ohio 44114
(216) 744-2739 (telephone)
(216) 916-4369 (facsimile)
rbarr@koehlerlaw.com
Co-counsel for Chicago Title Insurance
Company

SIKORA LAW LLC

/s/ Michael J. Sikora, III
Michael J. Sikora, III (0069512)
George H. Carr (0069372)
737 Bolivar Road, Suite 270
Cleveland, Ohio 44115
(440) 266-7777 (telephone)
(440) 266-7778 (facsimile)
msikora@sikoralaw.com
gcarr@sikoralaw.com
Co-counsel for Chicago Title Insurance
Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 25, 2018, a copy of the foregoing *Response of Chicago Title Insurance Company to Diane Osborne's Motion for Allowance and Immediate Payment of Administrative Expense Claim Pursuant to 11 U.S.C. § 507(a)(1)* was served:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

Dennis J. Kaselak, on behalf of Diane M. Osborne, at dkaselak@peteribold.com

Adam S. Baker, on behalf of Michael E. Osborne, Sr., at abakerlaw@sbcglobal.net

Robert D. Barr, Attorney for Chicago Title Insurance Company, at rbarr@koehler.law

Michael J. Sikora, III, Attorney for Chicago Title Insurance Company, at msikora@sikoralaw.com

Michael S. Tucker, Attorney for Citizens Bank, N.A., at mtucker@ulmer.com

Christopher J. Klym, Attorney for Ohio Department of Taxation, at bk@hhkwlaw.com

Matthew H. Matheney, Attorney for First National Bank of Pennsylvania, at mmatheney@bdblaw.com

Timothy P. Palmer, Attorney for The Huntington National Bank, at timothy.palmer@bipc.com

John J. Rutter, Attorney for Mentor Lumber & Supply Co., at jrutter@ralaw.com

Frederic P. Schwieg, Attorney for Richard M. Osborne, at fschwieg@schwieglaw.com

Jeffrey C. Toole, Attorney for Zachary B. Burkons, at toole@buckleyking.com

Maria D. Giannirakis ust06, United States Trustee, at maria.d.giannirakis@usdoj.gov

Scott R. Belhorn ust35, United States Trustee, at Scott.R.Belhorn@usdoj.gov

Gregory P. Amend, Attorney for First National Bank of Pennsylvania, at gamend@bdblaw.com

Nathaniel R. Sinn, Attorney for First National Bank of Pennsylvania, at nsinn@bdblawn.com

Alison L. Archer, Attorney for Lakeland Community College, at alison.archer@ohioattorneygeneral.com

David T. Brady, Attorney for Tax Ease Ohio, LLC, at DBrady@Sandhu-Law.com

Andrew M. Tomko, Attorney for Tax Ease Ohio, LLC, at atomko@sandhu-law.com

/s/ Robert D. Barr

Robert D. Barr

Co-Counsel for Chicago Title Insurance Company